

HOUSE No. 707

By Ms. Story of Amherst, petition of Ellen Story relative to cooperative parenting and child custody. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO COOPERATIVE PARENTING AND CHILD CUSTODY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 31 of chapter 208 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking out the second sentence of the sixth paragraph beginning
4 in line 22 and inserting in place thereof the following: “When
5 considering the happiness and welfare of the child, the court shall
6 consider the extent to which each parent has contributed to the
7 happiness and welfare of the child and to the physical, mental,
8 moral, and emotional health of the child. Except as provided for
9 in section 31A, if the court determines that the happiness and wel-
10 fare of the child can be provided for equally by the awarding of
11 sole custody or shared custody, the court should order shared cus-
12 tody, provided that the court is satisfied that both parents are
13 capable of participating in shared custody cooperatively and
14 respectfully with the other parent.”

1 SECTION 2. Section 31 of chapter 208 is further amended by
2 adding three sentences to the twelfth paragraph beginning in
3 line 60 so that the twelfth paragraph shall read in its entirety as
4 follows: “At the trial on the merits, the court shall consider the
5 shared custody implementation plans submitted by the parties.
6 The court shall consider the extent to which said shared custody
7 plans preserve the contributions made by each parent to the phys-
8 ical, mental, moral, and emotional health of the child. The court

9 shall consider the extent to which said shared custody plans
10 reflect the capacity of each parent to contribute to the happiness
11 and welfare of the child, cooperatively and respectfully with the
12 other parent. The court may issue an order for shared custody
13 and, in conjunction therewith, may accept the shared custody
14 implementation plan submitted by either party or by the parties
15 jointly or may issue a plan modifying the plan or plans submitted
16 by the parties. The court should accept shared custody implemen-
17 tation plans that preserve the parental contributions and reflect the
18 capacities for cooperative and respectful shared parenting, as set
19 forth above. The court may also reject the plan and issue a sole
20 legal and physical custody award to either parent. A shared cus-
21 tody implementation plan issued or accepted by the court shall
22 become part of the judgment in the action, together with any other
23 appropriate custody orders and orders regarding the responsibility
24 of the parties for the support of the child.